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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,378	07/30/2003	Gianfranco D'Amato	GKS 397	8950
23474	7590	06/29/2005	EXAMINER	
FLYNN THIEL BOUTELL & TANIS, P.C.			MEREK, JOSEPH C	
2026 RAMBLING ROAD			ART UNIT	
KALAMAZOO, MI 49008-1631			PAPER NUMBER	

3727

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,378

Applicant(s)

D'AMATO, GIANFRANCO

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10,12-20,22-27 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12-20,22-27 and 29-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "hologram" or the "print leaves open a control window" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-10, 12-20, 22-27, 29-31, 33, 34, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 56-156777 in view of McLaughlin (US 6,210,766). Regarding claim 1, as disclosed by applicant in the specification of the instant invention and in Fig. 4, JP 56-156777 teaches a collapsible container with the overlap and the bent opened but does not teach the at least two layers or the transparent fluid tight material. McLaughlin, as seen in Fig. 1-4 teaches a collapsible tube of fluid tight materials with a holographic decoration on an inner layer 14. It would have been obvious to employ the decoration and layers of McLaughlin in the container of JP 56-156777 to provide a holographic decoration as taught by McLaughlin or to provide a container with a longer shelf life due to the barrier properties of the laminate of McLaughlin. The outer layer of McLaughlin is inherently transparent since the decoration is on the inner layer 14 as seen in Fig. 1. Moreover, it would have been obvious to one of ordinary skill in the art to make the outer or any of the layers transparent to allow the user to see the decoration or to see the content of the container. The process step of the heat or pressure does not require any structure that is not in the combination of references. Regarding claim 2, the blank of JP '777 is two dimensional as seen in Fig. 1. Regarding claim 4, the junction of JP '777 satisfies the claim limitation of the "perfect permanent junction". Regarding claim 5, all the layers are

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transparent as discussed above in claim 1. Regarding claims 6-10 and 12-20, see Figs. 1 and 2 of McLaughlin and Col. 3, lines 18-57 where the specific layers of McLaughlin are disclosed. 14 is the central layer and is the same material as applicants. The outer layer is 12 and the inner layer is 22 both of which are the same as applicants. See Fig. 4 of McLaughlin, which has the same seam as that of JP '777 and applicants.

Regarding claim 8, see Fig. 4 of McLaughlin where all the layers overlap. Regarding claim 22, the container is a cup as seen in Fig. 4 of JP '777 and is circular. Regarding claim 23-25, the printing is a hologram and is capable of behaving exactly like that of applicant. The undecorated areas are the control window. Regarding claim 26, the intended use does not require any structure that is not in the reference. Regarding claim 27, see Figs. 4 and 5 of JP '777 where the angle is bent at least 90 degrees.

Regarding claim 29, since the materials of the modified container of JP '77 are the same as that of applicant the modified container of JP '777 will perform the claimed function. Regarding claim 30, the modified container of JP '777 is tapered and capable of stacking as seen I Fig. 4. Regarding claim 31, the materials of the modified container of JP '777 are that of applicants. See McLaughlin where the materials of layers 12 14 and 22 are that of applicants. Regarding claim 33, see Fig. 1 of JP '777 where the container begins as a blank. Regarding claim 34, see the above discussions where the modified container of JP '477 has all the claimed structure. Regarding claim 36, the holographic printing in the modified container of JP '777 is capable of performing the claimed function.

Claims 32 and 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP '777 in view of McLaughlin as applied to claims 1 and 34 respectively above, and further in view of Halligan et al (US 4,574,987). Regarding claim 32, the modified container of JP '477 does not teach the air space in or between the layers. Halligan et al as seen in Col. 2, lines 1-9 where there is an air space between the layers. It would have been obvious to employ the air space of Halligan et al in the modified container of JP '477 to provide the insulating and to make the container for frozen products as taught by Halligan et al.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP '477 in view of McLaughlin as applied to claim 34 above, and further in view of Yoshida (US 5,395,005). Regarding claim 37, JP '477, as seen in Fig. 5, teaches the closure 6, but does not teach the handle on the closure projecting outwardly from an edge. Yoshida as seen in Fig. 1, teaches a round closure with a handle projecting from the edge of the closure. It would have been obvious to employ the handle of Yoshida in the modified container of JP '477 to make it easier to remove the closure.

Conclusion

This is a non-final action due to the new grounds of rejection.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Branch et al (US 5,913,449) is cited for teaching a collapsible tube with a bent open-end edge. Donovan (US 6,648,176) is cited for teaching a collapsible tube that is clear or transparent and is decorated. Sparacio et al (US

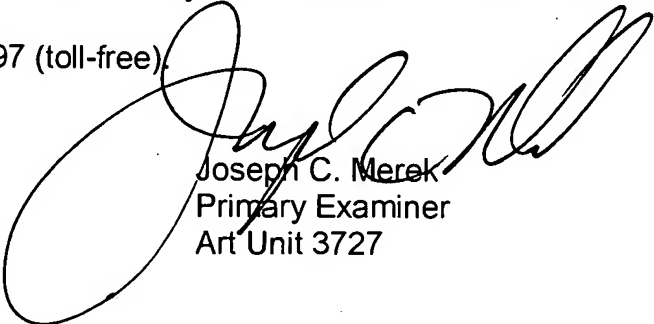
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4,775,523) is cited as evidence that it is obvious to make a collapsible laminate tube transparent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merck whose telephone number is 571 272-4542. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merck
Primary Examiner
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